THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

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WRIT PETITION NO : 9116 of 1996

Dated: 17-11-2005

Between:

Karri Kurmi Naidu and others.

..Petitioners.

And

The State of Andhra Pradesh, rep. by the Collector, Vizianagaram and another.

..Respondents.

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 9116 of 1996

ORDER:

This petition is filed questioning the notification dated 16-10-1976 proposing to acquire the lands of the petitioners on various grounds.

Respondents opposed the petition on various grounds including the ground of lapse on the part of the petitioners because they seem to have filed a suit and it was ultimately dismissed by this Court in S.A.No.158 of 1996 on 17-4-1996.

It is no doubt true that the acquisition is of the year 1976 and this writ petition is filed in 1996. But it should not be forgotten that there has been stay all through, in view of the petitioners filing a suit, appeal and second appeal, which was ultimately dismissed on the ground of lack of jurisdiction, I am of the considered opinion that this petition cannot be dismissed on the ground of the petitioner availing unavailable remedy of filing the suit in a civil Court questioning the notification.

Since the acquisition is for the purpose of house sites and since the contention of the petitioners is that they are all farmers having small extents of land and that there are other suitable lands for house sites available for acquisition and since the Apex court in **UNION OF INDIA V. KRISHAN LAL ARNEJA and in DELHI ADMINISTRATION v. GURDIP SINGH UBAN** held that enquiry under Section 5-A of the Land Acquisition Act ('the Act') is a valuable right to the owner of the land and that it cannot be dispensed with in a routine fashion unless there is a real and pressing urgency and since providing house sites is not an urgent matter much dispensation of enquiry under Section 5-A of the Act, respondents can be directed to conduct enquiry under Section 5-A of the Act and proceed further under the provisions of the Act.

Therefore, with a direction to the respondents to conduct enquiry under Section 5-A of the Act and proceed further under the provisions of the Act, this petition is disposed of. No costs.

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17-11-2005

sj